



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes BOARD OF ZONING APPEALS

*J. K. Lowman, Ward 2, Chairman*  
*James A. Mills, Ward 3, Vice Chairman*  
*Brad N. Leskoven, Ward 1*  
*David Hunter, Ward 4*  
*Ronald Clark, Ward 5*  
*Bobby Van Buren, Ward 6*  
*Justice Barber, Ward 7*

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Monday, February 23, 2015

6:00 PM

City Hall Council Chambers

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*Present: J. K. Lowman, Ronald Clark, Justice Barber, Brad N. Leskoven  
and David Hunter*

*Not Present: James Mills and Bobby VanBuren*

*Staff:*

*Brian Binzer – Director Development Services*

*Shelby Little, Planning Administrator*

*Daniel White, City Attorney*

*Ines Embler, Secretary to the Board*

### CALL TO ORDER:

*Mr. Lowman called the February 23, 2015 meeting of the Board of Zoning Appeals to order at 6:02PM.*

### MINUTES:

20150078

#### January 26, 2016 Board of Zoning Appeals Meeting Minutes

#### Review and Approval of the January 26, 2015 Board of Zoning Appeals Meeting Minutes.

*Mr. Hunter made a motion, seconded by Mr. Lowman, that the January 26, 2015 Board of Zoning Appeals meeting minutes be approved.*

#### Approved and Finalized

**Absent:** 2

**Vote For:** 5

**OLD BUSINESS:****VARIANCES:****20150074****V2015-06 [VARIANCE] FEDERAL HEATH SIGN CO. (TARGET CORPORATION)**

**V2015-06 [VARIANCE] FEDERAL HEATH SIGN CO. (TARGET CORPORATION)** request a variance for property located in Land Lot 08510, District 17, Parcel 0010, 2nd Section, Marietta, Cobb County, Georgia and being known as 2201 Cobb Parkway South. Variance to increase maximum sign height for a detached shared commercial space sign from 20 ft. to 25 ft.; variance to increase maximum sign face for a detached shared commercial space sign from 160 sq. ft. to 198 sq. ft.; variance to reduce the required 75' minimum distance that a property line must abut a public right of way in order to have a sign. Ward 7A.

*A public meeting was held.*

*The applicant, Mr. Boyd Hippenstiel of Federal Heath Sign Co., handed out pictures of the area to the board members and presented a request for the following two variances:*

- 1. Variance to increase maximum sign height for a detached shared commercial space sign from 20 ft. to 25 ft.;*
- 2. Variance to increase maximum sign face for a detached shared commercial space sign from 160 sq. ft. to 198 sq. ft.;*

*He also asked that the original request for a third variance to reduce the required 75' minimum distance that a property line must abut a public right of way in order to have a sign be withdrawn as it was no longer necessary based on the plat they submitted.*

*Ms. Barber asked questions about the difference in height, slope and topography of the area in relation to the sign and Mr. Hippenstiel responded to her questions satisfactorily.*

*Mr. Hunter asked if there was interest in moving the sign to the corner for better visibility and Mr. Hippenstiel explained that it would not be possible because the property will be divided into parcels.*

*Mr. Leskoven asked for clarification with regard to the road slope where the signs are located and Mr. Hippenstiel explained how the road goes up hill as you head north and downhill as you head south and how it affects visibility.*

*There was no opposition to this variance.*

*The public hearing was closed.*

*A motion was made by Ms. Barber to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Lowman. The Motion carried 5-0.*

A motion was made by Board member Barber, seconded by Board member Lowman, that this Variance be Approved and Finalized . The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

20150075

**V2015-07 [VARIANCE] AMY DANNER**

**V2015-07 [VARIANCE] AMY DANNER request variances for property located in Land Lot 01470, District 17, Parcel 1490, 2nd Section, Marietta, Cobb County, Georgia and being known as 312 Chestnut Hill Road. Variance to increase the maximum front yard fence or wall from 4' to 6'. Ward 3A.**

*A public meeting was held.*

*The applicant, Mrs. Amy Danner, presented her request for a variance to increase the maximum front yard fence or wall from 4' to 6'.*

*No questions were presented and there was no opposition to this variance.*

*The public hearing was closed.*

*A motion was made by Mr. Lowman to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Leskoven. The Motion carried 5-0.*

A motion was made by Board member Lowman, seconded by Board member Leskoven, that this Variance be Approved and Finalized . The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

20150076

**V2015-08 [VARIANCE] QUIKTRIP CORPORATION**

**V2015-08 [VARIANCE] QUIKTRIP CORPORATION request variances for property located in Land Lots 07800 & 07810, District 16, Parcels 0190, 0170, 0170, 0180, 2nd Section, Marietta, Cobb County, Georgia and being known as 825 & 835 Sandy Plains Road; 1817 & 1825 Canton Road. Variance to increase the allowable height for two monument signs from 15' to 16'4"; variance to reduce the required setback for underground gasoline tanks from 20' to 11.77'. Ward 6B.**

*A public meeting was held.*

*The applicant, Mr. Richard Calhoun, presented on behalf of QuikTrip Corporation a request for the following variances. Mr. John Dibernardo from QuikTrip Corporation was also present.*

*1. Variance to increase the allowable height for two monument signs from 15' to*

16'4";

2. Variance to reduce the required setback for underground gasoline tanks from 20' to 11.77'.

*In Opposition: 3*

*Mr. Don Parsons was opposed and expressed concern over the safety of adding more gas storage tanks to the area as there are already several gas stations nearby. He requested that the approval be delayed until safety information was available.*

*Mr. Lowman asked what sort of information did he have in mind and he said whether it's safe to do it or not.*

*Ms. Barber asked if his concern about the storage tanks was not so much the presence of the tanks and their location with respect to the setback as it is the mere presence of gasoline tanks and whether or not they are safe. Mr. Parsons responded in agreement and stated that this would also have a negative impact on businesses in the area.*

*Ms. Anne Suarez opposed and expressed concern over the impact on other filling stations, as there are six gas stations within one mile of this new QuikTrip. She stated that there is a DOW Chemical Plant in this area that is in use but that there is an Environmental Protection cleanup site adjacent to the railroad tracks. Her understanding after speaking with them was that they won't be finished with the cleanup for three years from now, but that they were not sure of the safety impact on moving the tanks closer. She spoke with the Marietta Fire Department about the regulation on burying gasoline tanks in general and their recommendation, according to code, was that they are three feet from the buildable property line. She requests that the board respect the recommendation of the Fire Department. She feels these mega stations are forcing other stations to close and they are being left deserted.*

*Mr. Giurdial Singh opposed. He owns a Chevron that's less than half a mile away from the proposed QuikTrip and expressed concern over allowing QuikTrip to have a sign much higher than his. He feels this would give them a competitive edge and would put him out of business.*

*Ms. Barber asked if his main concern is that he would be sandwiched between two QuikTrips and he agreed. She made it clear that QuikTrip could still build on that location even if they deny the variances and he reiterated that at least he would have a better chance to compete fairly if their signage wasn't so much higher than his.*

*In response to the opposition's concerns, Mr. Dibernardo explained that they are remodeling all of their stores and that this store is labeled with an "R" at the end of the title, which means that this is a relocation, thus the other store down the road will be closing soon after this one opens, but is unable to give an exact date as to when that will happen. Regarding the environmental aspect, he explained that as part of their due diligence they do a Phase 1 and Phase 2 Environmental and Geotechnical review and also do a complete cleanup if there is any contamination on the property. He said the new tanks that they install are double walled tanks. In response to Ms. Suarez' request about the setback being 3 feet, he said that he believes his tanks are set back 11 feet from the property.*

*Mr. Lowman asked regarding soil contamination and if there has been any core sampling and Mr. Dibernardo stated that they get the report back Friday but that they have not received any red flags so far.*

*Ms. Barber asked if they generally retain ownership of the stores they close and he stated that it depends on whether the store is a lease or if they own it, but that with every store they close, they do pull the tanks and do a complete environmental cleanup.*

Mr. Hunt expressed concern over the fact that Mr. Dibernardo was unable to guarantee the date that the other QuikTrip would be closing or that there would not be another gas station put in its place. Mr. Dibernardo stated that all of their tanks would be out of the property so if another gas station did move in they would have to put in their own tanks.

Mr. Clark asked for confirmation that the QuikTrip on Sandy Plains is the one that is going to close and that the new one is going to be in the same area that the other three gas stations are currently located at and Mr. Dibernardo affirmed.

Mr. Clark expressed concern that with so many gas stations in that area someone is going to be hurting, service wise. Mr. Dibernardo stated that they are not in the business of running people out of business and that their traffic count studies support adding a store there.

Regarding the sign height variance, Mr. Leskoven asked for confirmation that if the variance is not granted that the proportions of the sign will not change, it'll just be lowered by a foot and Mr. Dibernardo confirmed it.

Ms. Justice asked for confirmation that this new store is labeled with a hyphen R directly corresponds with the existing QuikTrip that they've been discussing and that the company decision has already been made to close that store and that's how this new store got that designation and Mr. Dibernardo responded in agreement. He said it will close, it's just a matter of when. He said it could take anywhere from one day to three months.

Ms. Justice asked what the difference is in elevation that he is trying to compensate for with the additional foot four inches and Mr. Calhoun offered details.

Ms. Justice asked for confirmation that even if the variance was not granted, that he still plans to continue with the regular planning process and Mr. Dibernardo responded in agreement.

The public hearing was closed.

A motion was made by Ms. Barber to deny the variance to increase the allowable height for two monument signs from 15' to 16'4" and to grant the variance to reduce the required setback for underground gasoline tanks from 20' to 11.77' on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Lowman

The Motion carried 5-0.

**A motion was made by Board member Barber, seconded by Board member Lowman, that the Variance to increase the allowable height for two monument signs from 15' to 16'4" be DENIED and that the Variance to reduce the required setback for underground gasoline tanks from 20' to 11.77' be APPROVED.**

**The motion CARRIED by the following vote.**

**Absent: 2**

**Vote For: 5**

20150077

**V2015-09 [VARIANCE] HOOVER FOODS**

**V2015-09 [VARIANCE] HOOVER FOODS request variances for property located in Land Lot 12110, District 16, Parcel 1340, 2nd Section, Marietta, Cobb County, Georgia and being known as 1123 Roswell Road. Variance to allow the use of metal siding on the front and side of a building facing a roadway. Ward 7A.**

*A public meeting was held.*

*Mr. Parks Huff of the law firm of Sams, Larkin, Huff & Balli represents the applicant, Hoover Foods, Inc., and presented a request for a variance to allow the use of metal siding on the front and side of a building facing a roadway for an existing Wendy's that is being remodeled.*

*Ms. Barber asked if there were any plans to update the interior of the building and Mr. Huff responded that the entire building was being renovated.*

*There was no opposition to this variance.*

*The public hearing was closed.*

*A motion was made by Ms. Barber to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Leskoven.*

*The Motion carried 5-0.*

**A motion was made by Board member Barber, seconded by Board member Leskoven, that this Variance be Approved and Finalized . The motion CARRIED by the following vote.**


**Absent: 2**

**Vote For: 5**

**ADJOURNMENT:**

*Mr. Lowman made a motion to adjourn, seconded by Mr. Leskoven. The February 23, 2015 meeting of the Board of Zoning Appeals was adjourned at 7:10PM.*

  
J.K. LOWMAN, CHAIRMAN

  
INES EMBLER, SECRETARY